

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

JOEL BRUCE SCHOONOVER,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-cv-00638

CORRECTIONAL OFFICER BUCK  
COLEMAN, et al.,

Defendants.

**ORDER**

By Standing Order entered on May 20, 2002, and filed in this case on June 28, 2004, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“PF&R”]. Magistrate Judge VanDervort filed his PF&R on August 16, 2006 [Docket 71]. In that filing, the magistrate judge recommended that this Court (1) grant Defendant Dr. Larry Williamson’s Motion for Summary Judgment [Docket 60], (2) grant the State Defendants’<sup>1</sup> Motion for Summary Judgment [Docket 65], and (3) dismiss this matter from the Court’s docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure

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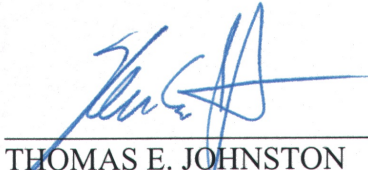
<sup>1</sup> The State Defendants include the Mount Olive Correctional Complex, Buck Coleman, William Fox, D. Freeman, William Hale, Thomas McBride, Nurse Moore, Everett Neff, Mrs. Parsons, Mrs. Rhodes, Scott Rogers, St. Mary’s Correctional Center, Don Stonebreaker, and the West Virginia Division of Corrections.

to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4<sup>th</sup> Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4<sup>th</sup> Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by September 1, 2006, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). No objections have been filed.

The Court adopts the recommendations of Magistrate Judge VanDervort. Accordingly, the Court hereby (1) **GRANTS** Defendant Dr. Larry Williamson's Motion for Summary Judgment [Docket 60], (2) **GRANTS** the State Defendants' Motion for Summary Judgment [Docket 65], and (3) **DISMISSES** this matter from the Court's docket.<sup>2</sup>

The Clerk is directed to mail a copy of this Judgment Order to all counsel of record, the plaintiff, *pro se*, and Magistrate Judge VanDervort.

ENTER: November 6, 2006

  
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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> This dismissal is based upon the affirmative defense of failure to exhaust administrative remedies and not subject matter jurisdiction.